

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

1615 L STREET, NW
TELEPHONE (202) 223-7300

WASHINGTON, DC 20036-5694
FACSIMILE (202) 223-7420

RECEIVED

SEP 13 1994

WRITER'S DIRECT DIAL NUMBER
(202) 223-7335

EX PARTE OR LATE FILED

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

September 13, 1994

DOCKET FILE COPY ORIGINAL

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-8084
TELEPHONE (212) 373-3000
FACSIMILE (212) 757-3990

189, BOULEVARD SAINT-GERMAIN
75007 PARIS, FRANCE
TELEPHONE (33-1) 45.49.33.85
FACSIMILE (33-1) 42.22.64.38

AKASAKA TWIN TOWER
17-22, AKASAKA 2-CHOME
MINATO-KU, TOKYO 107, JAPAN
TELEPHONE (81-3) 3505-0291
FACSIMILE (81-3) 3505-4540

SUITE 1910 SCITE TOWER
22 JIANGUOMENWAI DAJIE
BEIJING, 100004
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-1) 5123628-30
FACSIMILE (86-1) 5123631

13TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 536-9933
FACSIMILE (852) 536-9622

Re: Ex Parte Presentation
GEN Docket No. 90-314/ET Docket 92-100

Dear Mr. Caton:

On September 13, 1994, Mr. Doug Glenn of PageMart, Inc., and Mr. Jon Garcia and the undersigned, attorneys for PageMart, Inc., met with the following individuals to discuss the above-captioned rule-making proceeding: Ms. Karen Brinkmann, Office of Chairman Hundt; Mr. Rudolfo Baca, Office of Commissioner Quello; Mr. Thomas Mooring and Mr. Rodney Small, Office of Engineering and Technology; Dr. Robert Pepper, Mr. Donald Gips and Ms. Jackie Chorney, Office of Plans and Policy; Ms. Lisa Smith, Office of Commissioner Barrett; Mr. David Siddall, Office of Commissioner Ness. A background paper, copies of which are attached hereto, was provided to each individual.

Sincerely yours,


Susan E. Ryan

Attachments

No. of Copies rec'd 6
List ABCDE

PAGEMART, INC.
September 13, 1994

RECEIVED

SEP 13 1994

**EX PARTE PRESENTATION – NARROWBAND PCS
GEN DOCKET NO. 90-314, PP DOCKET NO. 93-253**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

1. The Commission should reconsider its decision to expand eligibility for the narrowband PCS response channels.
 - These channels originally were allocated to permit existing paging companies to offer advanced paging services in conjunction with their existing licenses.
 - By expanding the definition of "existing" paging licensees, the Commission has unfairly impeded the competitive prospects of incumbent paging companies. The revised definition of "existing" paging companies allows companies that do not serve a material portion of a market to acquire the response channels critical to the primary, existing providers in the market.
 - The Commission's eligibility decision will promote warehousing by firms that do not have an immediate need for response channels. Such firms may also seek channels in order to block companies, such as PageMart, which are currently serving a market.
2. Allocation of "some" of the response channels to entrepreneurs' blocks is a reversal of the Commission's policy and would unfairly disadvantage existing providers.
 - Existing paging firms such as PageMart have already invested significant resources in the development and construction of operating paging systems. Excluding these firms from the advanced paging market would lessen competition and innovation, and result in inefficient spectrum usage.
 - Reallocation of response channels to entrepreneurs' blocks would greatly reduce their availability for incumbents.
 - The response channels originally were intended to serve the needs of existing providers, not new market entrants. Thus, encouraging entrepreneurs to enter the narrowband PCS market does not require response channels set-asides.
3. The Commission correctly recognizes the need for more regional and nationwide licenses for designated entities. This need extends to non-designated entities as well. The Commission should therefore redesignate at least one 50 x 12.5 MHz MTA and BTA license as a national or regional license, or permit combinatorial bidding on such licenses. These licenses should be open to bidding by all parties.
 - The proposed rules unfairly benefit large, small and minority women-owned firms to the detriment of mid-sized firms that lack "deep pockets" but that cannot qualify as entrepreneurs.

Pursuant to 47 C.F.R. § 1.1206(a)(2), two copies of this document have been submitted to the Secretary of the Federal Communications Commission.

PAGEMART, INC.
September 13, 1994

RECEIVED

SEP 13 1994

**EX PARTE PRESENTATION – NARROWBAND PCS
GEN DOCKET NO. 90-314, PP DOCKET NO. 93-253**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

1. The Commission should reconsider its decision to expand eligibility for the narrowband PCS response channels.
 - These channels originally were allocated to permit existing paging companies to offer advanced paging services in conjunction with their existing licenses.
 - By expanding the definition of "existing" paging licensees, the Commission has unfairly impeded the competitive prospects of incumbent paging companies. The revised definition of "existing" paging companies allows companies that do not serve a material portion of a market to acquire the response channels critical to the primary, existing providers in the market.
 - The Commission's eligibility decision will promote warehousing by firms that do not have an immediate need for response channels. Such firms may also seek channels in order to block companies, such as PageMart, which are currently serving a market.
2. Allocation of "some" of the response channels to entrepreneurs' blocks is a reversal of the Commission's policy and would unfairly disadvantage existing providers.
 - Existing paging firms such as PageMart have already invested significant resources in the development and construction of operating paging systems. Excluding these firms from the advanced paging market would lessen competition and innovation, and result in inefficient spectrum usage.
 - Reallocation of response channels to entrepreneurs' blocks would greatly reduce their availability for incumbents.
 - The response channels originally were intended to serve the needs of existing providers, not new market entrants. Thus, encouraging entrepreneurs to enter the narrowband PCS market does not require response channels set-asides.
3. The Commission correctly recognizes the need for more regional and nationwide licenses for designated entities. This need extends to non-designated entities as well. The Commission should therefore redesignate at least one 50 x 12.5 MHz MTA and BTA license as a national or regional license, or permit combinatorial bidding on such licenses. These licenses should be open to bidding by all parties.
 - The proposed rules unfairly benefit large, small and minority women-owned firms to the detriment of mid-sized firms that lack "deep pockets" but that cannot qualify as entrepreneurs.

Pursuant to 47 C.F.R. § 1.1206(a)(2), two copies of this document have been submitted to the Secretary of the Federal Communications Commission.